

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

3:06-cv-140

PARAMOUNT PICTURES CORPORATION,)
a Delaware corporation,)
Plaintiff,)
v.)
WILLIAM MAURICE,)
Defendant.)

MEMORANDUM AND ORDER

In this civil action for monetary and injunctive relief, plaintiff Paramount Pictures alleges that Defendant William Maurice has been intentionally copying and distributing to others over the Internet unauthorized copies of the plaintiff's copyrighted motion pictures, in violation of the Copyright Act of 1976, 17 U.S.C. § 101 et seq. In his Answer, the defendant moved (by means of a single sentence) to dismiss the Complaint:

Plaintiff's complaint fails to state a claim upon which relief can be granted and should be dismissed pursuant to Rule 12(b)(4) of the Federal Rules of Civil Procedure for insufficiency of process; Rule 12(b)(5) for insufficiency of service of process and Rule 12(b)(6) for failure to state a claim upon which relief can be granted.

For the following reasons, the Court will deny the defendant's motion.

First, the Court notes that it is clear that defendant's single-sentence motion – which offers no supporting argument or authority – fails to satisfy Local Rule 7.1(A), which provides “all motions must be put in writing and shall state with particularity the grounds of the motions and shall set forth the relief or order sought.”

Second, even if the motion were construed to satisfy LR 7.1(A), the defendant has not clearly

shown that no relief could be granted under any set of facts that could be proved consistent with the allegations. Indeed, judged from the face of the Complaint, the plaintiff has pleaded a prima facie claim for direct copyright infringement. See 17 U.S.C. § 106(1)(3); In re Aimster Copyright Litig., 334 F.3d 643, 645 (7th Cir. 2003); A & M Records, Inc. v. Napster, Inc., 239 F.3d 1004, 1014-15 (9th Cir. 2001).

Lastly, the Court finds that the plaintiff has established that the defendant was properly served pursuant to Federal Rule of Civil Procedure 4(e)(2).¹

THEREFORE, IT IS HEREBY ORDERED that Defendant's Motion to Dismiss (Doc. No. 7) be **DENIED**.

Signed: March 31, 2007



Robert J. Conrad, Jr.
Chief United States District Judge



¹See (Doc. No. 3: Summons); (Doc. No. 6.: Return of Service). See also (Doc. No 9: Plaintiff's Response, at 2):

On April 10, 2006, Plaintiff filed a Return of Service. As set forth under penalty of perjury by the process server therein, Defendant was served on March 29, 2006, when copies of the summons and complaint were left with William Maurice, Jr., a person of suitable age and discretion, at Defendant's dwelling house or usual place of abode.